



STAFF REPORT

DATE: AUGUST 2, 2011
TO: HONORABLE MAYOR PRO TEM AND CITY COUNCIL
FROM: ROD FOSTER, CITY MANAGER *RJ Foster*
PREPARED BY: DEAN DERLETH, CITY ATTORNEY
SUBJECT: FILLING OF MAYORAL VACANCY

RECOMMENDED ACTION

It is recommended that the City Council discuss and consider whether to take any of the following actions in order to fill the unexpired term for the vacant Mayoral position: (1) appoint a person this evening; or (2) direct staff regarding a process to appoint a person at a subsequent meeting; or (3) direct staff to prepare the necessary resolutions to call a special election to be held on March 6, 2012 and request the County Elections Department to conduct the election on behalf of the City; or (4) take no action this evening.

GOAL STATEMENT

The proposed action will support the City's goal to continue in the spirit of our deceased Mayor Zamora's leadership.

BACKGROUND

Mayor David R. Zamora's tragic death on July 14, 2011 has created a vacancy in the position of Mayor. Government Code Section 34902 outlines the authority and process for the City Council to fill a vacancy in the office of an elected Mayor. It provides, in relevant part, as follows:

"In the case of a vacancy in the office of the mayor for any reason, the council shall fill the vacancy by appointment. If the council fails to fill it within 60 days, it shall call an election to fill the vacancy to be held on the next established election date to be held not less than 114 days thereafter. A person appointed or elected to fill a vacancy shall hold office for the unexpired term of the former incumbent."

Government Code Section 34902 does not appear to authorize the Council to extend the 60 day deadline to fill the vacancy via appointment.

ISSUES/ANALYSIS

The City Council has complete policy discretion to determine whether to appoint a person to fill the unexpired term of the Mayor or whether to call an election for that purpose. In addition, if the City Council determines to appoint a person, you have complete discretion to determine the process for selecting a person, as well as complete discretion to select any person who is otherwise qualified to hold an elective office in the City.

With respect to appointment, the only requirement is that you make the appointment within 60 days of the vacancy, which in this case would be September 14, 2011. If you wish, you are free to make an appointment this evening.

In the event the City Council decides to call a special election to fill the vacancy, the Council would need to adopt a resolution calling the special election. The special election must then be scheduled on the next regularly established election date that is not less than 114 days from the date the resolution is adopted. California Elections Code Section 1000 defines established election dates as follows:

- The 2nd Tuesday of April in each even-numbered year.
- The 1st Tuesday after the 1st Monday in March of each odd-numbered year.
- The 1st Tuesday after the 1st Monday in June of each year.
- The 1st Tuesday after the 1st Monday in November of each year.

If the Council chooses to hold a special election, it would be held on March 6, 2012.

FISCAL IMPACTS

Should the City Council decide to call a special election, the estimated cost is \$140,550. These funds are not budgeted in the current fiscal year. No fiscal impact is anticipated if the City Council decides to fill the vacancy by appointment.

ALTERNATIVES

1. Provide alternative direction to staff.

ATTACHMENTS

None